

ATTORNEY DOCKET NO. 18202.0002U1
Application No. 10/582,445

REMARKS

Claims 11 and 25 have been cancelled. New claim 27 has been added. Claims 1-10, 12-15, 19-23 and 27 are now pending in the application. Reexamination and reconsideration of the claims, in view of the amendments and discussion below, are respectfully requested.

In response to the objection to the drawings under 37 C.F.R. 1.82(a), a new Figure 5 is submitted, along with renumbered pages for Figures 1-4. In response to the examiner's objections, Figure 5 now shows the layers 3b-4b as cross-hatched to indicate that these layers are also in section, and includes a cut-line at the upper end of the layers 4a-4b of the sheath 4 to indicate where the partial section terminates. [Examiner's Note - this is an area I would like to discuss with you, to make sure I fully understand your objections to the drawing. One suggestion I have is to add a section line to Fig. 4 to indicate where the section of Fig. 5 is taken. See attached informal mark-ups for discussion.]

The examiner objected to the Abstract as using unnecessary or legal terminology. The attached replacement Abstract is submitted in response.

The examiner objected to the disclosure because the description of the invention needs to be consistent with the drawings. It is submitted that Figure 5 submitted with this response overcomes this objection.

The examiner also objected to the disclosure as being either internally inconsistent or otherwise not supportive of the previous amendment to claim 1. First, Applicant desires to point out that the phrase added to claim 1 in the prior amendment was: "and is resiliently expandable in a radial direction, but not in a longitudinal direction." Support for this amendment is found in the original specification at page 7, lines 18-22, as previously referenced.

The examiner's concerns with the inconsistencies between the use of "expandable in a radial direction" and references in the specification to "elastic in a circumferential direction"

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seem to be inapposite. Applicant states that in order for a cylindrical tube to be expandable in a radial direction it is at least desirable, if not necessary, that the tube be elastic circumferentially (that is, in a circumferential direction). **[[This is another area I want to make sure I understand your position and to discuss. The terms "radial" and "circumferentially" are used interchangeably, but we are open to using only "radial" if that is necessary to achieve allowance.]]**

The examiner objected to the amendment to the specification as adding new matter, with specific reference to the amendments to page 4, line 13, and to page 7, line 16. As discussed above, it is submitted that the prior language at page 7, lines 16-24, supports the amendment to page 4, lines 13-17. Regarding the objection to the amendment to page 7, line 16, the amendment to the specification herein restores that paragraph to the original status.

The examiner objected to claims 9, 11, and 25 as being substantial duplicates of claim 1. Applicant has cancelled claims 11 and 25. However, with regard to claim 9, Applicant submits that "flexible" as claimed in claim 9 is not the same as "expandable" in claim 1, and, therefore, the objection to claim 9 on this basis should be withdrawn.

The examiner rejected the claims under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. It is submitted that this rejection should be withdrawn on the basis of the discussion above regarding the use of the terms "radial" and "circumferential."

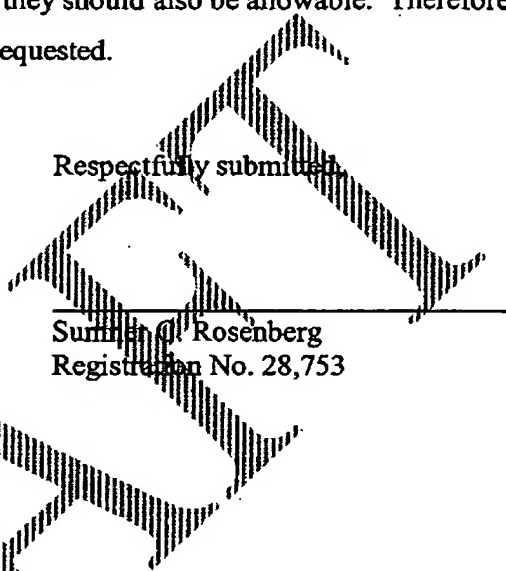
The examiner also provisionally rejected the claims on the ground of nonstatutory obviousness-type double patenting over claims 1-28 of Application No. 11/920481. Applicant respectfully submits that until such time that the Examiner finds allowable subject matter, a complete determination regarding the merits of this provisional double patenting rejection cannot be made. Furthermore, since the present application has the earlier filing date, it appears that the disclaimer, if required, should be filed in Application No. 11/920481 if and when the claims in

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that application are allowed. However, if the examiner holds that a disclaimer is required in the present case, Applicant will file the required disclaimer at that time.

Based on these arguments, claim 1 should be allowable. Since the remaining claims are all dependent, directly or indirectly, on claim 1, they should also be allowable. Therefore, early allowance of all pending claims is respectfully requested.

Respectfully submitted,


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Jo Anne Tyson

Date